IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7828 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 NO

BIRLA CELLULOSIC

Versus

DEPUTY SECRETARY

Appearance:

1. Special Civil Application No. 7828 of 2001

MR KS NANAVATI for NANAVATI ASSOCIATES for Petitioner

MRS SONAL D VYAS AGP for Respondent No. 1-2

MR MUKUL SINHA for Respondent No. 3

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 18/04/2002

ORAL JUDGEMENT

1. After the matter being argued at some length, there was a consensus among the learned counsel that the

petitioner's plea regarding the period between 7.11.1999 to 24.1.2000 being on strike was not amply reflected in the terms of reference. Without prejudice to the respondent No.3-trade union's contention that no case about the said period being of any strike was ever made out before the conciliation officer or the appropriate government, it was stated on their behalf that they would have no objection to amendment of the terms of reference to facilitate taking up of such plea or defence before the Industrial Tribunal to which the dispute was referred by the impugned order dated 29.8.2000. The learned Assistant Government Pleader Mrs.Vyas submitted that the authorities under the appropriate government, i.e. respondents Nos.1 and 2, had no objection to treating the present petition as an application of the petitioner for amendment of the terms of reference and in deciding upon the issue as to whether and in which terms a corrigendum order of reference should be issued in accordance with the provisions of sub-section (4) of Section 10 of the Industrial Disputes Act.

2. Accordingly, the petition is partly allowed and the respondents Nos.1 and 2 are directed to decide upon the issue of issuing necessary order for amendment or for specifying the additional points of dispute for adjudication in accordance with law. This process shall be carried out, after giving an opportunity of hearing to the respondent No.3, within a period of one month from today and the Industrial Tribunal shall proceed with the proceedings of Reference (IT) No.151 of 2000 thereafter. Rule is made absolute accordingly with no order as to costs.

Sd/-

(D.H.Waghela, J.)

18.4.2002
(KMG Thilake)